

CHAPTER 141  
LICENSURE OF NURSING HOME ADMINISTRATORS  
[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners(600), Ch 2]

**645—141.1(155) Requirement for licensure.** All persons acting or serving in the capacity of a nursing home administrator shall hold a nursing home administrator's license issued by the board except as provided in Iowa Code section 155.9(3).

**645—141.2(155) Minimum qualifications for licensure as a nursing home administrator prior to January 1, 1999.**

**141.2(1) *Personal qualifications of applicants.***

*a.* Each applicant must establish to the satisfaction of the board that the applicant is able to carry out the duties of a nursing home administrator.

*b.* Each applicant must have reached the age of majority.

**141.2(2) *Education qualifications of applicants.***

*a. High school or equivalent education.* Each applicant must establish to the satisfaction of the board the fact of graduation from a high school accredited at the time of graduation by the state department of education or its equivalent of the state in which the high school is located, or achievement of a passing score on the general education and development examination as may be recognized as the equivalent of high school graduation by the state department of education of the state in which the examination was completed. This provision shall not be applicable if the applicant submits evidence of an associate of arts or higher college degree.

*b. Health care education.* Each applicant must establish to the satisfaction of the board successful completion of an academic and training program in nursing home administration prescribed, adopted and required by the board.

(1) Each applicant must complete a postsecondary academic program accredited by the North Central Accrediting Association of not less than 64 hours.

1. A curriculum of the program in long-term health care administration offered by an accredited college or university with an associate of arts degree complies with the educational requirements.

2. An applicant who does not meet criteria in 141.2(2) "b"(1)"1" must demonstrate satisfactory completion of requirements including:

6 semester hours of social sciences; and

6 semester hours of English or communications or both; and

5 semester hours of mathematics or science or both; and

10 semester hours of business management, accounting or business law or any combination thereof; and

4 semester hours of gerontology; and

13 semester hours of health care administration; and

12 semester hours of long-term health care practicum (720 clock hours). There are nine areas of practicum requiring 80 clock hours each; social services; dietary; legal aspects and government organizations; nursing; environmental services; activities/community resources; business administration; administrative organization; human resource management. Substitution of one year of long-term health care administration experience supervised by a licensed administrator may be allowed at the discretion of the board; and

8 semester hours of electives, for a total of 64 semester hours.

(2) This shall not preclude the board from granting a license to an applicant showing satisfactory evidence of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home.

(3) The required practicum shall be under a preceptor in an Iowa-licensed nursing home with no fewer than 25 beds, in accordance with the following:

1. The facility chosen for the practicum cannot be owned by a parent, spouse or sibling of the student;

2. The student cannot be a provisional administrator of the facility during the time of the practicum.

(4) A preceptor must meet the following criteria:

1. Hold a current Iowa license in good standing as a nursing home administrator;

2. Have at least two years' experience as a licensed nursing home administrator;

3. Be present in the facility at least 75 percent of the student's practicum;

4. Not be related to the student as a parent, spouse or sibling.

c. *Examination.* Each applicant shall be required to pass an examination in nursing home administration subjects listed in 141.6(1) and 141.6(2).

**645—141.3(155) Minimum qualifications for licensure as a nursing home administrator beginning January 1, 1999.** Applicants who have not met the requirements of 141.2(155) resulting in a license prior to January 1, 1999, will need to file a new application with the board meeting the criteria in 141.3(155) to 141.6(155).

**141.3(1) Personal qualifications of applicants.**

a. Each applicant must establish to the satisfaction of the board that the applicant is able to carry out the duties of a nursing home administrator.

b. Each applicant must have reached the age of majority.

**\*141.3(2) Educational qualifications of applicants.**

a. Each applicant must establish to the satisfaction of the board successful completion of a baccalaureate or postbaccalaureate degree in health care administration and approved by the board, from a college or university currently accredited by one of the following: a regional accrediting agency, an organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation), or the National Association of Boards of Examiners of Long Term Care Administrators.

b. In lieu of 141.3(2) "a," a minimum of:

(1) A baccalaureate degree from a college or university currently accredited by a regional accrediting agency or organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation); and

(2) 10 semester hours of business management, accounting or business law or any combination thereof; and

(3) 6 semester hours of gerontology; and

(4) 12 semester hours in health care administration including but not limited to the areas of organizational management, regulatory management, personnel management, resident care management, environmental services management, and financial management; and

(5) 12 semester hours of long-term health care practicum (720 clock hours). There are nine areas of practicum requiring 80 clock hours each: social services; dietary; legal aspects and government organizations; nursing; environmental services; activities/community resources; business administration; administrative organization; human resource management. Substitution of one year of long-term health care administration experience supervised by a licensed administrator may be allowed at the discretion of the board.

\*Effective date of subrule 141.3(2) delayed until adjournment of the 1996 General Assembly by the the Administrative Rules Review Committee at its meeting held October 10, 1995.

**141.3(3) *Exceptions to minimum education requirements.*** Any individual holding one of the following is deemed to meet the requirements of this rule:

- a. A valid Iowa license as a nursing home administrator as of January 1, 1999, or
- b. Certification as an administrator in good standing with the American College of Health Care Administrators.

This rule is intended to implement Iowa Code sections 155.3 and 155.9.

**645—141.4(155) Practicum/internship.**

**141.4(1)** Practicum experience shall be under a preceptor in an Iowa-licensed nursing home in accordance with the following:

- a. The facility must have a licensed capacity of no fewer than 25 beds.
- b. The facility cannot be owned or operated by a parent, spouse or sibling of the student.
- c. The student may not be a provisional administrator of the facility during the time of practicum.
- d. The preceptor:
  - (1) Must hold a current Iowa license in good standing as a nursing home administrator.
  - (2) Must have at least two years' experience as a licensed nursing home administrator.
  - (3) Must be present in the facility at least 75 percent of the student's practicum.
  - (4) Cannot be related to the student as a parent, spouse or sibling.

**141.4(2)** The board may grant waivers of the total practicum requirement based on previous life experience. Substitution of no less than one year of long-term health care administration experience may be allowed at the discretion of the board. Requests for approval of waivers of practicum must be accompanied by supporting documentation, verified by both the applicant and the applicant's employer under whom the experience was obtained.

**141.4(3)** Any falsification or misrepresentation contained in any report or document attesting the facts, conditions and activities of the internship or work experience and submitted by the applicant, administrator/preceptor or other participants may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to fines and any other penalties provided by law.

**645—141.5(155) Application for licensure as a nursing home administrator.**

**141.5(1)** Each applicant for licensure as a nursing home administrator shall complete an application on a form furnished by the board. The application, which may be obtained from the Professional Licensure Division, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, supporting data and documents required by the board must be completed and on file at least 45 days prior to the announced licensure examination date. Each applicant found to be eligible for the examination date will be notified by letter to the address shown on the application, of eligibility for, and of the time and place of the examination at least 14 days prior to the examination date.

**141.5(2)** Each applicant who is otherwise qualified and has passed the approved state and national examinations will be notified of eligibility for licensure.

**141.5(3)** Each applicant who fails the state or national examination may apply for reexamination at the next examination scheduled by the board. The applicant shall not be examined more than three times for either the state or national examination, except as provided in subrule 141.5(4).

**141.5(4)** If the applicant fails a third state or national examination, education in areas established by the board must be obtained before another examination will be allowed or a license is issued.

**141.5(5)** Application forms are available from the Iowa department of public health. License and examination fees are sent to: Iowa Board of Examiners for Nursing Home Administrators, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Examination fees must be received in the board office at least 20 days prior to the testing date.

**141.5(6)** Application forms will be considered current for a period of three years. If the applicant is not licensed within three years from the date that the application is initially received, the application will be destroyed and all fees submitted will be forfeited.

**645—141.6(155) Examination.** Each applicant for licensure shall be required to pass a national and a state examination.

**141.6(1) *National examination.*** The passing score is a scaled score, set by the National Association for Boards of Examiners for Nursing Home Administrators. This examination tests knowledge of the domains of practice including:

- a. Resident care management;
- b. Personnel management;
- c. Financial management;
- d. Organizational management;
- e. Environmental management;
- f. Regulatory management.

**141.6(2) *State examination.*** Applicants must obtain a score of no less than 75 percent to pass. This examination tests knowledge of Iowa state rules and regulations as promulgated by:

- a. The Iowa department of inspections and appeals
- b. The Iowa department of human services
- c. The Iowa department of public safety
- d. The Iowa board of examiners for nursing home administrators.

**141.6(3) *Identification.*** At the time of the examination, examinees must present identification which includes a current photograph.

**141.6(4) *Confidentiality.*** Information relating to the content of the examinations is confidential. Willfully communicating or seeking to communicate such information, or willfully requesting, obtaining or seeking to obtain such information, may be grounds for disciplinary action including denial, suspension or revocation of a license to practice nursing home administration in addition to fines and any other penalties provided by law.

This rule is intended to implement Iowa Code subsection 155.3(3).

**645—141.7(155) Provisional license.** Effective January 1, 1999, under certain limited circumstances, and only upon the filing of an application requesting approval, a provisional administrator may be appointed to serve as the administrator of a nursing home. A provisional administrator is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed six months. The six-month appointment runs from the date approved by the board, and the months in service do not need to be consecutive. The person serving as a provisional administrator shall not be permitted to serve more than a total of six months.

**141.7(1)** The limited circumstances under which the request for a provisional appointment shall be granted include the inability of the licensed administrator to perform the administrator's duties, the death of the licensed administrator or circumstances which prevent the immediate transfer of the licensed administrator's duties to another licensed administrator.

**141.7(2)** Applications for a provisional appointment shall be in writing on a form prescribed by the board. Persons applying shall meet the following minimum qualifications:

- a.* Be at least 18 years of age.
- b.* Be employed on a full-time basis of no less than 32 hours per week to perform the duties of the nursing home administrator.
- c.* Be knowledgeable of the nursing home administrators' domains of practice including resident care management, personnel management, financial management, environmental management, regulatory management and organizational management.
- d.* Be without history of unprofessional conduct or denial or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 141.12(147,155,272C).

**141.7(3)** The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval shall be based on information or circumstances warranting such action.

**645—141.8(155) License cycle.**

**141.8(1)** *Name and address changes.* All board correspondence is mailed to the licensee at the last known address on file with the board office. Licensees shall provide written notification to the professional licensure division within 60 days of any change in name or address; there is no charge for a change of name or address in board records.

**141.8(2)** *New licenses.* New licenses shall be issued from the date of examination through the current biennium, except that persons licensed after October 1 of an odd-numbered year shall be licensed in full for the next biennium.

**141.8(3)** *Renewal of license.*

- a.* The period of licensure is January 1 of each even-numbered year through December 31 of the next odd-numbered year.
- b.* At least 60 days prior to the expiration of the license, the board office shall mail a renewal application and continuing education report form.
- c.* The licensee shall submit to the board office the completed application and continuing education report form with the renewal fee as specified in 141.11(5).
- d.* When the licensee has satisfactorily completed the requirements for renewal, a renewal shall be issued and mailed to the licensee.

**141.8(4)** *Late renewal.* The board grants a 30-day grace period for renewal. Any administrator who fails to submit the required renewal information and fee within 30 days after the expiration date on the current license and who has not submitted a request for inactive licensure status shall be considered a delinquent licensee.

- a.* Time frames for license renewal will not be extended based on failure to receive a renewal application due to change in address not reported to the board or failure to submit a completed continuing education report form or fees.
- b.* Immediately upon reaching a delinquent status, the delinquent licensee shall not practice nursing home administration in Iowa until the licensee is reinstated to current status.
- c.* If a delinquent licensee is found to be working without a current license, disciplinary action may be taken.

**645—141.9(155) Inactive license status.**

**141.9(1)** Inactive license status is a status where the licensee is not required to obtain continuing education or pay fees. An inactive licensee shall not practice nursing home administration in the state of Iowa.

**141.9(2)** Only current licensees may request inactive status. Licensees may request inactive status by one of the following methods:

*a.* The current certificate of license renewal may be returned to the board office prior to its expiration, with a written request for inactive status. Inactive status becomes effective immediately upon the board's receipt of the certificate.

*b.* Prior to the expiration of the current certificate, the licensee may submit the renewal form marked "requesting inactive status." Inactive status becomes effective when the current renewal certificate expires.

**645—141.10(155) Reinstatement.**

**141.10(1)** A delinquent licensee who wishes to reinstate to a current status shall make the request in writing to the board.

*a.* Upon receipt of the written request, the board office shall send an application, continuing education report form, and statement of fees and penalties to the delinquent licensee.

*b.* The continuing education renewal requirements and fees and penalties as outlined in 141.11(155) shall be cumulative and accrue from the date the licensee became delinquent to the date of renewal.

*c.* In addition to fees and penalties, any administrator who fails to renew a license within 90 days following the expiration of a current license may be required to meet with the board and, if through the interview process the board finds reasonable doubt that the licensee displays knowledge of the domains of practice, as listed in 141.6(1), the board may require the administrator to successfully complete any or all of the minimum qualifications for licensure as outlined in 141.3(155) prior to license renewal.

**141.10(2)** A licensee on inactive status may request reinstatement to current status by submitting a written request to the board office.

*a.* Upon receipt of written request, the board office shall send an application and continuing education report form.

*b.* An inactive licensee shall have completed 40 contact hours of continuing education as specified in 645—Chapter 143. The continuing education shall have been earned within the 24 months prior to reinstatement.

*c.* The licensee shall pay the reinstatement fee as specified in 141.11(12).

*d.* In addition to fees and required continuing education materials, inactive licensees may be required to meet with the board and, if through the interview process the board finds reasonable doubt that the licensee displays knowledge of the domains of practice, as listed in 141.6(1), the board may require the applicant to successfully complete any or all of the minimum qualifications for licensure as outlined in 141.3(155) prior to license renewal.

*e.* When issued, the active license shall be effective through the current biennium.

**645—141.11(155) Penalties and license fees. All fees are nonrefundable.**

- 141.11(1)** The basic application fee required from all applicants for licensure is \$50.
- 141.11(2)** The fee for the national examination determined by the NAB is to be paid by certified check or money order made payable to NAB (National Board of Examiners for Nursing Home Administrators) and mailed to the Iowa board office at the address in 141.5(1).
- 141.11(3)** The fee for the state examination is \$75.
- 141.11(4)** The fee for a provisional letter is \$120 for a maximum six-month period of time.
- 141.11(5)** The fee for biennial renewal of a license is \$90 payable on or before December 31 of each odd-numbered year.
- 141.11(6)** The fee for a duplicate license to replace an original or for display in a second facility is \$10.
- 141.11(7)** The fee for a biennial renewal of a duplicate license for display in a second facility is \$10, payable at the time of renewal for the original license.
- 141.11(8)** The fee for a certified statement that a licensee is licensed in this state is \$10.
- 141.11(9)** The penalty fee for failure to obtain required continuing education credits within the compliance period is \$30.
- 141.11(10)** The penalty fee for failure to renew a license prior to its expiration is \$75 in addition to the renewal fees.
- 141.11(11)** The penalty fee for failure to renew a license after 30 days following the expiration is \$150 in addition to renewal fees.
- 141.11(12)** The fee for reinstatement of a license is based on \$45 per year, or any portion thereof, from the date of reinstatement to the next December 31 of an odd-numbered year.
- 141.11(13)** The application fee for an approved providership shall be \$100.

**645—141.12(147,155,272C) Sanctions, license denial, suspension and revocation.** The board may deny an initial or renewal application, or invoke sanctions of citation and warning, probation, suspension or revocation of a nursing home administrator's license for the following reasons:

- 141.12(1)** Obtaining or attempting to obtain a license by fraud or deceit.
- 141.12(2)** Professional incompetence.
- 141.12(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of nursing home administration or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- 141.12(4)** Habitual intoxication or addiction to the use of drugs.
- 141.12(5)** Conviction of a felony that is substantially related to the qualifications, functions or duties of a nursing home administrator and evidences unfitness to perform as a nursing home administrator in a manner consistent with protecting the public health, safety and welfare, in the courts of this state or any other state territory, country or of the United States. As used in this paragraph, the term "conviction of a felony" shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law, without regard to its designation elsewhere. A copy of the record of conviction or plea of guilty shall be conclusive as evidence.
- 141.12(6)** Having a license to practice nursing home administration or another profession revoked, suspended or annulled by any lawful licensing authority; or had other disciplinary action taken against the license by any lawful licensing authority; or was denied a license or was refused the renewal of a license by any lawful licensing authority pursuant to disciplinary proceedings.
- 141.12(7)** Willful or repeated violations of any statute, rule or regulation regarding a nursing home.
- 141.12(8)** Knowingly aided, assisted, procured, or advised any person to practice nursing home administration contrary to this chapter or to the rules and regulations of the board; or knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or entity to practice nursing home administration.

**141.12(9)** Failure to report to the board every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice.

**141.12(10)** Use of untrue or improbable statements in advertisements.

**141.12(11)** Failure to report to the board in writing a change of name or address within 60 days after the change occurs.

**645—141.13(155) Disciplinary procedure.**

**141.13(1)** *Proceedings.* The proceeding for disciplinary action against a licensee or the denial of a license shall be substantially in accord with the following procedures which are an alternative to or in addition to the procedures stated in Iowa Code chapters 272C and 17A.

**141.13(2)** *Investigations.* The board shall, upon receipt of the complaint in writing, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for license discipline.

**141.13(3)** *Place and time of filing.* The complaint may be delivered personally or by mail to the office of the board. The current address of the board is Board of Examiners for Nursing Home Administrators, Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**141.13(4)** *Investigation of allegations.*

*a.* Complaints shall be initially reviewed by the discipline committee of the board. The discipline committee is composed of a minimum of three board members including at least two nursing home administrator members and one professional member. The discipline committee may decide to take one of the following actions:

(1) Recommend to the board that the case be investigated by the department of inspections and appeals;

(2) Recommend to the board that a board member investigate the facts of the complaint;

(3) Recommend to the board that the case be rejected.

*b.* After consulting with disciplinary committee members, the board chairperson may direct that an immediate investigation be made in cases that may present an imminent danger to the public.

**141.13(5)** *Investigation report.* Upon completion of an investigation, the investigator shall prepare a report for the board's consideration. Upon receipt of the report, the discipline committee shall decide whether probable cause exists for further proceedings and make a recommendation to the board.

**141.13(6)** *Investigative interviews.*

*a.* In the course of conducting or directing an investigation, the board may request the licensee to attend an informal investigatory interview before the board. The licensee is not required to attend the investigatory interview.

*b.* Because an investigatory interview constitutes a part of the board's investigation of a potential disciplinary case, statements that are made and facts which are discussed at the investigatory interview may be considered by the board in the event the matter proceeds to a contested case hearing and those statements and facts are independently introduced into evidence.

*c.* The licensee may be, but is not required to be, represented by an attorney at the informal discussion. The attorney may advise the licensee and may participate in general discussion and may, upon leave of the board, make statements on behalf of the licensee, but is not entitled to make procedural motions or objections or engage in argumentative advocacy on behalf of the licensee.



*d.* The investigative interview shall be held in closed session pursuant to Iowa Code section 21.5(1).

*e.* The licensee or the board may seek an informal stipulation or settlement of the case at any time during the investigation, including during or after an investigative interview. The chairperson or the chairperson's designee may negotiate on behalf of the board. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record. No board member is disqualified from participating in the adjudication of any resulting contested case by virtue of reviewing the investigative material or having participated in negotiation discussions. If the parties agree to an informal settlement during the investigative process, a statement of charges shall be filed simultaneously with the settlement document. In the event a settlement is not reached under this rule, the poststatement of charges may still be utilized.

**141.13(7)** *Informal settlement.*

*a. Parties.*

(1) A contested case may be resolved by informal settlement. Settlement negotiations may be initiated at any stage of a contested case proceeding. Neither party is obligated to utilize this procedure to settle the case. Negotiation of an informal settlement may be initiated by the board, the assistant attorney general representing the public interest, or the respondent. Initiation by the respondent shall be directly with the assistant attorney general representing the public interest.

(2) The chairperson of the discipline committee or that chairperson's designee has authority to negotiate on behalf of the board.

*b. Waiver of notice and opportunity to be heard.* Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board's designee until that consent is affirmatively withdrawn.

*c. Negotiation deadline.* Negotiations for a proposed settlement shall be completed at least seven days prior to the hearing date. However, in instances where additional time will clearly lead to a satisfactory settlement prior to the hearing date, the chairperson of the discipline committee may grant additional time.

*d. Board approval.* The full board shall not be involved in negotiation until a final, written settlement executed by the respondent is submitted to the full board for approval. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record. If the board fails to approve an informal settlement, it shall be of no force or effect to either party.

*e. Participation of board member.* The chairperson of the discipline committee or a board member who is designated to act in negotiation of an informal settlement may review investigative material in the course of conducting the negotiation. The negotiating board member is not disqualified from participating in the adjudication of the contested case by virtue of reviewing the investigative material or having participated in negotiation discussions.

**141.13(8)** *Disposition of a complaint.*

*a.* If a determination is made by the board to reject the complaint, the complainant shall be informed of the status of the complaint. A letter of explanation concerning the decision of the board may be sent to the licensee involved.

*b.* If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

*c.* If a determination of probable cause is made by the board to initiate disciplinary action, the board may recommend formal disciplinary proceedings.

**141.13(9) *Order for hearing.*** The board may issue an order setting the time and place for hearing. A written notice of hearing together with a statement of the charges shall be served upon the licensee at least 30 days before the hearing by personal service or by certified mail, return receipt requested.

**141.13(10) *Notice of publication.*** If the nursing home administrator has left the state, the notice and statement of charges shall be so served at least 30 days before the date of the hearing, wherever they may be found. If the whereabouts of the nursing home administrator are unknown, service may be had by publication as provided in the rules of civil procedure upon filing the required affidavit. In case the nursing home administrator fails to appear, either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing as hereinafter provided.

**141.13(11) *Statement of charges.*** The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the licensee is charged, and shall be in sufficient detail to enable the efficient preparation of the licensee's defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated and may also include additional information which the board deems appropriate to the proceeding.

**141.13(12) *Legal representation.*** Every statement of charges and notice of hearing prepared by the board shall be reviewed and approved by the office of the attorney general, which shall be responsible for the legal representation of the public interest in all proceedings before the board.

**141.13(13) *Prehearing conferences.*** A prehearing conference may be conducted by the administrative law judge at the request of the board chairperson, the licensee, or office of attorney general. Each party shall be given the date, time and place of the prehearing conference.

**141.13(14) *Appearance.*** The licensee shall have the right to appear in person and be represented by an attorney before the board at the licensee's expense.

**141.13(15) *Failure by licensee to appear.*** If a licensee, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the licensee shall be bound by the results of such hearing to the same extent as if the licensee were present.

**141.13(16) *Record of proceedings.*** Oral proceedings shall be recorded either by mechanical or electrical means, or by certified shorthand reporters. Any part of oral proceedings shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. Any recording or stenographic notes of oral proceedings or their transcription shall be filed and maintained for at least five years from the date of the decision. Any party to a proceeding may record, at the party's own expense, stenographically or electronically, any portion or all of the proceedings.

**141.13(17) *Hearings.*** A hearing shall be conducted before the board.

*a.* When a hearing is held, the board chairperson or administrative law judge shall act as the presiding officer. The presiding officer shall be in control of the proceedings and shall have the authority to administer oaths, to admit or exclude testimony or other evidence and to rule on all motions and objections.

*b.* The board members have the right to conduct a direct examination of a witness's testimony. Direct examination and cross-examination by board members are subject to objections raised in accordance with the rules of evidence.

*c.* The hearing shall be open to the public unless the licensee's attorney requests that the hearing be closed to the public.

**141.13(18) *Order of proceedings.*** Before testimony is presented, the record shall show the identity of any board members present, the identity of the primary parties and their representatives, and the fact that all testimony is being recorded. Hearings before the board shall generally follow the order established by these rules, subject to modification at the discretion of the board conducting the proceedings.

*a.* The presiding officer or designee shall read the specification of charges and the answer to them, or other responsive pleadings, filed by the respondent prior to the hearing.

*b.* The assistant attorney general representing the public interest before the board shall make an opening statement.

*c.* The respondent or respondents shall each be offered the opportunity to make an opening statement. A respondent may elect to reserve the respondent's opening statement until just prior to the representation of evidence by the respondent.

*d.* The presentation of evidence on behalf of the public.

*e.* The presentation of evidence on behalf of the respondent(s).

*f.* Rebuttal evidence on behalf of the public.

*g.* Rebuttal evidence on behalf of the respondent(s).

*h.* Closing arguments first on behalf of the public, then on behalf of the respondent, and then on behalf of the public.

**141.13(19) *Notification of decision.*** All parties to a proceeding shall be promptly furnished with a copy of any final decision or order either in person or by first-class mail, or by telephone if necessary to ensure that the parties learn of the decision or order first.

**141.13(20) *Rehearing.*** Within 20 days after issuance of a final decision, any party may file an application for a rehearing. The application shall state the specific grounds for rehearing and the relief sought. Copies shall be mailed to all other parties. The application shall be deemed denied if not granted within 20 days after service on the board.

*a.* Upon a rehearing, the board shall consider facts not presented in the original proceedings if either:

(1) The facts arose subsequent to the original proceedings;

(2) The party offering evidence could not reasonably have provided it at the original proceedings;

or

(3) The party offering the additional evidence was misled by any party as to the necessity for offering the evidence at the original proceeding.

*b.* The decision made upon a rehearing may incorporate by reference any and all parts of the decision made upon the conclusion of the original proceeding.

**141.13(21) *Disciplinary decision.*** A decision to discipline a licensee shall remain in force and effect until an appeal is finally determined and disposed of upon its merits.

**141.13(22) *Rules of general applicability.*** Ex parte communication, separation of functions, judicial review and appeals shall be in accordance with the terms of the Iowa administrative procedure Act.

**141.13(23) *Publication of decisions.*** Final decisions of the board relating to disciplinary procedures shall be transmitted to appropriate professional association(s) including the National Board of Examiners for Nursing Home Administrators, and a newspaper(s) of general circulation to be selected by the board.

**141.13(24) *Reinstatement.*** Any person whose license to practice has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

*a.* If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. The application shall be docketed in the original case in which the license was revoked, suspended, or relinquished.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license of the nursing home administrator to be reinstated. The burden of proof to establish facts shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law and must be based upon the affirmative vote of not fewer than five members of the board. This order will be published as provided for in subrule 141.13(23).

**141.13(25) License denial.** Any request to have a hearing before the board concerning the denial for a license shall be submitted by the applicant in writing to the board at the address in subrule 141.13(3) by mail or personal service on the board office, within 30 days of mailing of a notice of denial of license.

These rules are intended to implement Iowa Code chapter 155.

[Filed 2/23/71]

[Filed 3/19/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]

[Filed 11/18/76, Notice 9/22/76—published 12/15/76, effective 1/19/77]

[Filed 8/28/78, Notice 3/8/78—published 9/20/78, effective 10/25/78]

[Filed 12/8/78, Notice 9/20/78—published 12/27/78, effective 1/31/79]

[Filed 10/19/79, Notice 8/22/79—published 11/14/79, effective 12/21/79\*]

[Filed emergency 12/18/79—published 1/9/80, effective 12/18/79]

[Filed 5/7/80, Notice 4/2/80—published 5/28/80, effective 7/7/80]

[Filed emergency 6/9/80—published 7/9/80, effective 7/7/80]

[Filed 3/13/81, Notice 12/24/80—published 4/1/81, effective 5/7/81]

[Filed 8/14/81, Notice 6/10/81—published 9/2/81, effective 10/7/81]

[Filed 3/18/82, Notice 2/3/82—published 4/14/82, effective 5/19/82]

[Filed 10/6/83, Notice 7/20/83—published 10/26/83, effective 12/1/83]

[Filed emergency 11/30/83 after Notice 10/26/83—published 12/21/83, effective 11/30/83]

[Filed 5/11/84, Notice 3/14/84—published 6/6/84, effective 7/12/84]

[Filed 7/13/84, Notice 6/6/84—published 8/1/84, effective 9/5/84]∅

[Filed 11/8/84, Notice 9/12/84—published 12/5/84, effective 1/9/85]

[Filed 1/11/85, Notice 11/7/84—published 1/30/85, effective 3/6/85]

[Filed 4/4/85, Notice 12/5/84—published 4/24/85, effective 5/29/85]

[Filed 7/10/85, Notice 6/5/85—published 7/31/85, effective 9/4/85]

[Filed 1/17/86, Notice 8/14/85—published 2/12/86, effective 3/21/86]

[Filed 8/5/88, Notice 3/23/88—published 8/24/88, effective 9/28/88]

[Filed 2/17/89, Notice 12/14/88—published 3/8/89, effective 4/12/89]

[Filed 11/22/89, Notice 9/20/89—published 12/13/89, effective 1/17/90]

[Filed 4/13/90, Notice 2/21/90—published 5/2/90, effective 6/6/90]

[Filed 7/20/90, Notice 4/4/90—published 8/8/90, effective 9/12/90]∅

[Filed 3/15/91, Notice 12/26/90—published 4/3/91, effective 5/8/91]

[Filed emergency 8/16/91—published 9/4/91, effective 8/16/91]

[Filed 2/13/92, Notice 12/25/91—published 3/4/92, effective 4/8/92]

[Filed 8/25/95, Notice 3/15/95—published 9/13/95, effective 10/18/95\*\*]

[Filed 9/4/98, Notice 7/15/98—published 9/23/98, effective 10/28/98]

\*Effective date of rule 600—2.7 delayed by the Administrative Rules Review Committee 70 days.

\*\*Effective date of 645—subrule 141.3(2), delayed until adjournment of the 1996 General Assembly by the Administrative Rules Review Committee at its meeting held October 10, 1995.

∅Two ARCs